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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,865	01/26/2001	Thomas R. Lemmons	UV/001 C2	7787
1473	7590	07/20/2004	EXAMINER	
FISH & NEAVE 1251 AVENUE OF THE AMERICAS 50TH FLOOR NEW YORK, NY 10020-1105			DEMICO, MATTHEW R	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 07/20/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/770,865	LEMMONS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Matthew R Demicco	2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 January 2001.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 26 January 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “132” has been used to designate both a program information cell and an icon in Figure 4. Further, both Figure 21 and 22 have a reference character “866” representing a Quick Menu in one and a Day to View routine in the other. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
  
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Figure 11, reference character “610”. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 23 is objected to because of the following informalities: Applicant claims a “system method for presenting a program guide...” For purposes of examination, the Examiner will treat this as a system claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 2 and 15 recite the limitation "the navigation icon" in lines 10 and 12, respectively. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 2-4, 6-7, 10-12, 15-17, 19-20 and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,621,456 to Florin et al.

Regarding Claim 2, as best understood by the Examiner, Florin discloses a method for navigating in a program guide comprising presenting the program guide to a user (See Figure 28), presenting in the program guide a navigation cell that may be

selected by the user (315 and Col. 18, Lines 10-31), receiving a user selection of the navigation cell and navigating the program guide to a navigation point corresponding to the navigation cell in response to the user selection of the cell (Col. 19, Lines 4-25). In this case, only programs of the selected category will be displayed in the program listing.

Regarding Claim 3, Florin discloses a method as stated above in Claim 2 further comprising presenting a program grid (See Figure 28) within the program guide. The program grid delimits various aspects of the program guide in boxes (300, 360 and 365). This reads on the claimed program grid comprising the navigation cell (300) and the program information cells (360).

Regarding Claim 4, Florin discloses a method as stated above in Claim 3 further comprising allowing the user to press a button on the remote control (Col. 19, Lines 4-8) to move the cursor from the program listing to the category listing (See Figures 27 and 28). This reads on the claimed repositioning a cursor from the program information cell within the program grid to the navigation cell.

Regarding Claim 6, Florin discloses a method as stated above in Claim 2 further comprising presenting an icon in the navigation cell (See Figure 28).

Regarding Claim 7, Florin discloses a method as stated above in Claim 2 wherein an "All Categories" button is present (See Figure 28) that lists all currently available programs (Col. 18, Lines 17-21). This reads on the claimed navigation point corresponds to programs that are currently being broadcast.

Regarding Claim 10, Florin discloses a method for navigating in a program guide as stated above, including presenting a program guide to a user, presenting in the program

guide a menu (See Figure 28) including a navigation point that may be selected by the user, receiving a user selection of the navigation point and navigating the guide to the point in response to the user's selection.

Regarding Claim 11, see Claim 3 above.

Regarding Claim 12, see Claim 7 above.

Regarding Claim 15, as best understood by the Examiner, Florin discloses a system for presenting a program guide (See Figure 1), comprising a remote control (60) that receives user input from a user and a control unit (54) that causes the program guide (See Figure 28) to be presented to a user. Florin further discloses a navigation cell that may be selected by the user to be presented in the program guide that receives a user selection and navigates the program guide to a navigation point corresponding to the cell in response to the user selection as stated above.

Regarding Claims 16-17 and 19-20, see Claims 3-4 and 6-7 above, respectively.

Regarding Claim 23, as best understood by the Examiner, Florin discloses a system for presenting a program guide comprising a remote control and a control unit as stated above in Claim 15. Florin further discloses presenting a program guide to a user, causing a menu including a navigation point that may be selected by the user to be presented in the guide, and receiving a user selection of the point that causes navigation of the guide to the navigation point in response to the user's selection as stated above.

Regarding Claims 24-25, see Claims 3 and 7 above, respectively.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin et al. in view of U.S. Patent No. 6,418,556 to Bennington et al.

Regarding Claim 5, Florin discloses a method as stated above in Claim 3 wherein the user is operable to scroll up and down within a listing (Col. 12, Lines 21-28). What is not disclosed, however, is scrolling the program information cells while keeping the navigation cell substantially fixed in response to user input. Bennington discloses a method of navigating in a program guide (See Figure 19) wherein the user is operable to move a highlighted cursor to scroll within a program listing (Col. 14, Lines 42-51). Further disclosed is a menu of category listings (Col. 14, Lines 52-67), which the user can similarly highlight and select to display a listing of programs. In this mode a user is operable to use the cursor to highlight shows similar to the All Listings Mode (Col. 15, Lines 1-13). Bennington discloses that only the program schedule scrolls in response to the user moving the cursor towards an extremity of the screen. This reads on the claimed scrolling the program information cells while keeping the navigation cell substantially fixed in response to user input. Bennington is evidence that ordinary workers in the art would recognize the benefits of scrolling in a program listing while displaying a menu in a fixed position. Therefore, it would have been obvious to one having ordinary skill in the

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art at the time the invention was made to modify the system of Florin with the fixed menu of Bennington in order to allow a user to easily select on-screen options without requiring implementation of additional remote control buttons.

Regarding Claim 18, see Claim 5 above.

11. Claims 8, 13, 21 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin et al.

Regarding Claim 8, Florin discloses a method as stated above in Claim 2. Florin further discloses a navigation point that displays a listing of movies available for viewing (Col. 18, Lines 26-28). Florin also discloses that many other categories can be displayed (Col. 18, Lines 31-32). What is not disclosed, however, is that the navigation point corresponds to programs that are broadcast on premium channels. Official Notice is hereby taken that it is well known in the art to provide premium program channels to a user of an EPG. Because Florin discloses displaying many other categories, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Florin with the premium programming of the well-known prior art in order to list a premium programming category for user-friendly browsing.

Regarding Claim 13, 21 and 26, see Claim 8 above.

12. Claims 9, 14, 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Florin et al. in view of U.S. Patent No. 5,727,060 to Young.

Regarding Claim 9, Florin discloses a method as stated above in Claim 2. Florin also discloses that many other categories can be displayed (Col. 18, Lines 31-32). What is not disclosed, however, is that the navigation point corresponds to programs that are broadcast during a prime-time period. Young discloses a method for navigating in a program guide (See Figure 17) wherein a prime-time command displays a time-period for prime-time programming (Col. 24, Lines 38-42). Young is evidence that ordinary workers in the art would recognize the benefits of having a prime-time command to display prime-time programming on an EPG. Because Florin discloses displaying many other categories of programming, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of Florin with the prime-time programming of Young in order to list a prime-time programming for user-friendly browsing.

Regarding Claim 14, 22 and 27, see Claim 9 above.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a. U.S. Patent No. 5,642,153 to Chaney et al. discloses a television program guide with a category bar (See Figure 3).
  - b. U.S. Patent No. 6,426,779 to Noguchi et al. discloses a program guide with a category bar (See Figure 1).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew R Demicco whose telephone number is (703) 305-8155. The examiner can normally be reached on Mon-Fri, 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

(M)

mrd

July 8, 2004



VIVEK SRIVASTAVA  
PRIMARY EXAMINER